

January 9, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: IB Docket No. 01-185; ET Docket No. 00-258; Constellation Communications Holdings, Inc., File Nos. 181-SAT-LOA-97(46), IBFS Nos. SAT-LOA-19970926-00148, SAT-AMD-19991230-00134, SAT-AMD-20001103-00152, SAT-MOD-20020719-00103, SAT-T/C-20020718-00114; Mobile Communications Holdings, Inc., File Nos. 180-SAT-P/LA-97(26), SAT-MOD-20020719-00105, SAT-T/C-20020719-00104

Dear Ms. Dortch:

On behalf of AT&T Wireless Services, Inc., Cingular Wireless LLC, and Verizon Wireless (jointly, the "Carriers"), we hereby submit the following response to the latest *ex parte* letter filed by ICO Global Communications (Holdings) Ltd. ("ICO"), Mobile Communications Holdings, Inc. ("MCHI"), and Constellation Communications Holdings, Inc. ("Constellation") on January 6, 2003. The Commission has before it two starkly different interpretations of precedent regarding whether satellite sharing arrangements satisfy a non-contingent satellite manufacturing contract milestone. The Carriers have made a comprehensive showing that the case law fully supports their position, which they stand by, and will refrain from burdening the Commission with yet another round of analysis. No amount of rhetoric can alter this precedent or the facts before the Commission.

In the cases of MCHI and Constellation, neither 2 GHz MSS licensee has entered into a non-contingent satellite manufacturing construction contract. Indeed, each has abandoned its licensed plans to build out its own 2 GHz MSS system. Instead, MCHI and Constellation are attempting to satisfy the milestone requirement by piggybacking on the milestone compliance of another provider – ICO – as they await Commission action on applications to transfer their licenses to ICO. In 2000, the Commission committed to "strictly enforce" the 2 GHz MSS milestones, expressly noting the "probability" that some licensees would fail to satisfy the milestone requirements. Thus, the issue here is whether, under the strict enforcement standard

Ms. Marlene H. Dortch

January 9, 2003

Page 2

applied to 2 GHz MSS licensees, these licensees' efforts comply with the requirement to enter into non-contingent satellite manufacturing contracts. As amply demonstrated in the record, they do not.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being filed electronically with respect to the rulemaking dockets, and two paper copies are being filed with the Secretary's office with respect to each application proceeding.

Respectfully submitted,

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